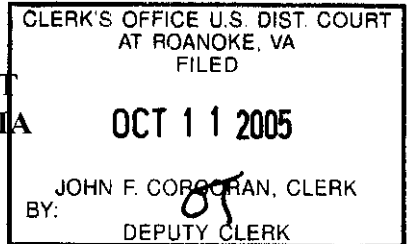


IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
ROANOKE DIVISION



GREGORY S. HINES, # 202605,  
Petitioner,

v.

WARDEN D.A. BRAXTON, et al.,  
Respondent.

Civil Action No. 7:05-cv-00035

MEMORANDUM OPINION & ORDER

By: Michael F. Urbanski  
United States Magistrate Judge

This matter is before the court on plaintiff's letter, which the court will construe as a motion for an enlargement of time within which to a notice of appeal, document number 60. By order entered September 12, 2005, plaintiff's complaint was dismissed pursuant to 42 U.S.C. § 1997e(a). Plaintiff has until October 12, 2005 to file a timely notice of appeal. See Fed. R. Civ. P. 4(a). Hines now requests an extension of time within which to file his notice of appeal as to this judgment because he "possibly might be retaining counsel."

The district court may extend the time in which to file a notice of appeal if a party so moves no more than 30 days after the time for filing a notice of appeal expires and if that party shows good cause or excusable neglect. Fed. R. Civ. P. 4(a)(5). Although plaintiff has filed his motion for an extension of time before the statutory period has expired, plaintiff's mere desire to "possibly" retain counsel before pursuing an appeal does not establish good cause to justify such an extension.

Accordingly, it is hereby

**ORDERED**

that this motion for an enlargement of time is hereby **DENIED**.

The Clerk of the Court is directed to send certified copies of this order to plaintiff and to counsel of record for the defendant.

ENTER: This 11 day of October, 2005.

  
United States Magistrate Judge

U.S. District Court  
Western District  
Office of the Clerk

40-4-05  
CLERK'S OFFICE U.S. DIST. COURT  
AT ROANOKE, VA  
FILED

OCT 05 2005

JOHN F. CORCORAN, CLERK  
BY: [Signature]  
DEPUTY CLERK

re: Gregory S. Hines # 20-2605  
vs. Civil Action No. 7:05-cv-00035  
Warden D.A. Braxton, et. als

Dear Court Clerk,

I'm writing to you in regard to the above-styled case, Civil Action No. 7:05-cv-00035, that on 12 Sep. 05, it was ordered by the Court that Summary Judgment and Motion to Dismiss filed by the Defendants, be granted.

I informally informed the Court that I do wish, and intend to appeal the decision. However, I'm asking the Court for an extension of time to file my Appeal. I wish the Court, in consideration of my request for an extension to file such Appeal, that I'm possibly might be retaining Counsel to handle my Appeal.

As I stated, I intend to Appeal the Court's decision, and I ask that the Court inform me if I'm following proper procedures in doing so, and/or requesting an extension. Thank you!

Gregory S. Hines # 20-2605  
Rec Union State Prison  
P.O. Box 1866  
Roanoke, VA 24279

G.Hines #202625  
R.C. 2026 (B408)  
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Legal  
mail



U.S. District Court  
Western District

Office of the Clerk  
PC Box 1234

2006-11-12  
Leone, Va. 24274

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